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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,376	03/07/2007	Mathias Franz	2003P08761 (NSN)	6460
24131	7590	07/14/2011		
LERNER GREENBERG STEMER LLP			EXAMINER	
P O BOX 2480			KIHRODHAR, MAHARISHI V	
HOLLYWOOD, FL 33022-2480				
ART UNIT		PAPER NUMBER		
2463				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/561,376

Applicant(s)

FRANZ ET AL.

Examiner

MAHARISHI KHIRODHAR

Art Unit

2463

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-19 and 21 - 28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16 - 19 and 21 - 28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 March 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/31/2011 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 16 – 19, 21 - 28 have been considered but are moot in view of the new ground(s) of rejection. Pertaining to Claim 1 and 28, applicant uses the phrase "special hardware", given the broadest reasonable interpretation, a special hardware could be interpreted as being either software or hardware, or a combination of both. Appropriate clarification is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 16 – 19 and 21 – 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cave et al. (US 2001/0005382 A1) in view of deCarmo (5,838,996).

Claim 16, Cave discloses: A method for determining the type of transmission of signaling information between a first packet network terminal and a speech dialogue system, for [[a]] simplifying the processing of the signaling information with relation to a dialogue with a speech dialogue system in a packet network (Abstract), comprising:

providing a first speech dialogue system, the first speech dialogue system having no special hardware for the support of in-band signaling (§ 0027, in band signals for higher compression scheme requires more sophisticate hardware for compression and decompression, to avoid this the signal is sent out of band);

specifying the first speech dialogue system as the speech dialogue system (§ 0027, where the VRU reads the packet);

determining a codec supported by both the first packet network terminal and the speech dialogue system for the transmission of signaling information (§ 0027, where codecs are determined for the compression and decompression of the in band and out of band signals);

sends a signaling message to the first packet network terminal and that message stipulates the use of out-of-band signaling; and in the case that the first packet network terminal does not permit out-of-band signaling for codecs supported by both the first packet network terminal and the first speech dialogue (§ 0027, for higher compression the in band codec cannot be used because of the higher complexity of the compression scheme, hence it is sent out of band for processing).

Cave does not disclose: controlling the speech dialogue system by a control device that, independently of the selected codec, specifying a second speech dialogue system supporting in-band signaling as the speech dialogue system instead of the first speech dialogue system, and determining a coding method with in-band signaling is for the transmission of the signaling information between the first packet terminal and the second speech dialogue system.

DeCarmo discloses: specifying a second speech dialogue system supporting in-band signaling as the speech dialogue system instead of the first speech dialogue system, and determining a coding method with in-band signaling is for the transmission of the signaling information between the first packet terminal and the second speech dialogue system and special hardware for the support of in band signaling (Column 9, lines 65 – Column 10, lines 7).

It would have been obvious at the time the invention was made to modify Cave's system to include the controlling of the codecs in software or hardware depending on its nature be it in band or out of band signaling as taught by DeCarmo. The motivation for making the above modification would have been to optimize the overall efficiency of the system (Column 10, lines 6 – 7).

Claim 22 is analyzed with respect to claim 16.

Claim 17, Cave further discloses: The method according to claim 16, wherein, with relation to a codec negotiation/determination, a codec is selected that is supported

by both packet network terminals (§ 0027 and Figure, Codec must be common to both network since there is direct communication between the Packet network and PSTN via the gateway and VRU).

Claim 24 is analyzed with respect to claim 17.

Claim 18, Cave further discloses: The method according to claim 16, wherein the transmission of signaling information with relation to an automated information output is carried out by Dual Tone Multiple Frequency characters (§ 0026 - § 0027).

Claim 25 is analyzed with respect to claim 18.

Claim 19, DeCarmo further discloses: The method according to claim 16, wherein the speech dialogue system is controlled by a control device that is represented by a packet based exchange, a call server, a proxy server, or a soft switch (summary of invention).

Claim 23 is analyzed with respect to claim 19.

Claim 26 is analyzed with respect to claim 19.

Claim 21, Cave further discloses: The method according to claim 16, wherein with relation to the dialogue with the speech dialogue system, an automatic output of information, speech information, video information, or both is undertaken (§ 0027, telephone, keyboard of IP phone or RTP/RTCP media stream).

Claim 27 is analyzed with respect to claim 21.

5. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cave et al. (US 2001/0005382 A1) in view of deCarmo (5,838,996) in further view of Request for comments:2833 (RTP payload for DTMF Digits, Telephony Tones and Telephony Signals, H. Schulzrinne).

Claim 28, Cave discloses: A method for determining the type of transmission of signaling information between a first packet network terminal and a speech dialogue system in a packet network (Abstract), comprising:

providing a first speech dialogue system, the first speech dialogue system having no special hardware devices for the support of in-band signaling (§ 0027, in band signals for higher compression scheme requires more sophisticate hardware for compression and decompression, to avoid this the signal is sent out of band);

specifying the first speech dialogue system as the speech dialogue system (§ 0027, where the VRU reads the packet);

determining whether both of the first packet network terminal and the first speech dialogue system support a codec with at least one of out-of-band-signaling or signaling by specially labeled data packets for the transmission of signaling information (§ 0027, where codecs are determined for the compression and decompression of the in band and out of band signals); and if, in the determining step, it cannot be determined that both of the first packet network terminal and the first speech dialogue system support a codec with out-of-band signaling or signaling (§ 0027, Since the VRU is capable of processing the out of band channel):

Cave does not disclose: specifying a second speech dialogue system supporting in-band signaling as the speech dialogue system instead of the first speech dialogue system; and determining a coding method with in-band signaling for the transmission of the signaling information between the first packet terminal and the second speech dialogue system.

DeCarmo discloses: specifying a second speech dialogue system supporting in-band signaling as the speech dialogue system instead of the first speech dialogue system, and determining a coding method with in-band signaling is for the transmission of the signaling information between the first packet terminal and the second speech dialogue system and special hardware for the support of in band signaling (Column 9, lines 65 – Column 10, lines 7).

It would have been obvious at the time the invention was made to modify Cave's system to include the controlling of the codecs in software or hardware depending on its

nature be it in band or out of band signaling as taught by DeCarmo. The motivation for making the above modification would have been to optimize the overall efficiency of the system (Column 10, lines 6 – 7).

Cave in view of DeCarmo does not disclose: RFC 2833 standard.

Schulzrinne discloses: RFC 2833 standard.

It would have been obvious at the time the invention was made to modify Cave's system in view of DeCarmo to include RFC 2833 standard as taught by Schulzrinne. The motivation for making the above modification was to use a well known standard that is present in today's internet community.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAHARISHI KHIRODHAR whose telephone number is (571)270-7909. The examiner can normally be reached on Monday to Thursday, 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derrick Ferris can be reached on 571-272-3123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M.K/

/Derrick W Ferris/
Supervisory Patent Examiner, Art Unit 2463